

GERALD F. RUSSELL
PATRICIA K. RUSSELL

IBLA 83-184

Decided April 15, 1983

Appeal from decision of California State Office, Bureau of Land Management, declaring unpatented mining claims abandoned and void. CA MC 15955 through CA MC 15959.

Appeal dismissed.

1. Appeals--Rules of Practice: Appeals: Dismissal--Rules of Practice: Appeals: Timely Filing

Notice of appeal must be filed within 30 days after the person taking the appeal is served with the decision from which the appeal is taken. The timely filing of a notice of appeal is jurisdictional and failure to file the appeal within the time allowed requires dismissal of the appeal.

APPEARANCES: Gary D. Davis, Esq., Nevada City, California, for appellants.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

The California State Office, Bureau of Land Management (BLM), by decision of October 1, 1982, declared the unpatented Red Rock Mine, Power Nos. 1, 2, and 3, and Anne C lode mining claims, CA MC 15955 through CA MC 15959, abandoned and void because no proof of labor or notice of intent to hold the claims was timely filed with BLM in 1981, as required by section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976). The decision was served on Jerald F. Russell and Patricia K. Russell on October 7, 1982, granting a right of appeal to this Board for a period of 30 days thereafter. No appeal was taken, so BLM closed the cases November 24, 1982.

On November 29, 1982, the Russells filed a notice of appeal with BLM.

[1] The regulations require that a notice of appeal must be filed within 30 days after the person taking the appeal is served with the decision from which the appeal is taken. 43 CFR 4.411(a). This Board has held that the timely filing of a notice of appeal is required to establish the jurisdiction of the Board to review the decision below and that the failure to file the appeal within the time allowed mandates dismissal of the appeal. Nequoia Association, 60 IBLA 386 (1981), appeal pending (Nequoia Association v. Watt, No. 82-1084 (N.D. Utah filed Nov. 17, 1982)); Ilean Landis, 49 IBLA 59 (1980); Lavonne E. Grewell, 23 IBLA 190 (1976); see Browder v. Director, Illinois Department of Corrections, 434 U.S. 257, 264 (1978); Pressentin v. Seaton, 284 F.2d 195, 199 (D.C. Cir. 1960). Although this Board is generally reluctant to take any action which would preclude review of appeals on the merits, the purpose of the rule is to establish a definite time when administrative proceedings regarding a claim are at an end, in order to protect other parties to the proceedings and the public interest, and strict adherence to the rule is required. See Browder v. Director, Illinois Department of Corrections, *supra* at 264.

Since appellants did not file a notice of appeal of the October 1, 1982, BLM decision within the 30-day period for appeal, the BLM decision became final, the mining claims are considered abandoned and void, and this proceeding must be dismissed.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the appeal of Jerald F. Russell and Patricia K. Russell is dismissed.

Douglas E. Henriques

Administrative Judge

We concur:

Will A. Irwin
Administrative Judge

R. W. Mullen
Administrative Judge.

